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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,348

02/17/2006

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EXAMINER

LOW, LINDSAY M

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

06/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,348

Applicant(s)

VAN DE SANDE, MARINUS
LAMBERTUS WILHELM

Examiner

Lindsay M. Low

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's amendment received on April 24th, 2007.

Drawings

2. The drawings were received on April 24th, 2007. These drawings are acceptable.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal in view of admitted prior art for the same reasons set forth in paragraph 11 of the previous office action mailed January 26th, 2007.

As noted in the previous office action, Van der Wal discloses the same invention substantially as claimed except for the conveyor being a belt. However, Examiner gave Official Notice for such feature which applicant did not adequately traverse; therefore, such feature is deemed to be admitted prior art (see MPEP 2144.03). It would have been obvious to one having ordinary skill in the art to have provided a belt to convey the packets forward in Van der Wal's device in order to provide smooth and continuous transportation of packages to be strapped.

It should be noted that Van der Wal's invention has at least two bands as shown in Fig. 1. In addition, each band and clamping means (Figs. 2-8) is capable of holding different types of bands, such as metal, another fusible material, or non-fusible material (col. 1 lines 65-69 and col.3 lines 31). Therefore, the bands can be considered to be of the film type or the strap type.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal in view of Odenthal for the same reasons set forth in paragraph 12 of the office action, *supra*.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal in view of Odenthal for the same reasons set forth in paragraph 13 of the office action, *supra*.

Response to Arguments

7. Applicant's remarks have been fully considered but they are not deemed persuasive.

Applicant contends that Van der Wal's invention does not disclose a combination of having two different types of bands (i.e. a strap and a film) being applied by a single machine. However, claims are given their broadest reasonable interpretation. In this instance, claim 1 merely states what types of bands are used with the machine. The claim does not encompass the combination of the film and strap bands and the device only encompasses a device that uses the different bands. Furthermore, the claim is not restricted to a device that simultaneously uses different types of bands. In any event,

Van der Wal states in col. 1 line 65 – col. 2 line1 and col. 3 lines 31-33 that this single device can be used for applying different kinds of bands around the packages.

Therefore, the device includes and is capable of applying two different kinds of bands at the same time or combination thereof.

Applicant also contends that Odenthal does not disclose a machine for applying different types of bands at the same time on a single machine and does not use a first and second group of band clamping and guide means. However, as shown in Fig. 1, Odenthal clearly shows two different sizes of bands (one band being wider than the other) being applied at the same time on a single machine. Although not specifically shown, it is inherent as shown by reference number 28 in Fig. 1 that a first and second group of band clamping and guide means are used for each band type in order to adequately wind the tape tightly around the packages.

For the reasons above, the grounds of rejection are deemed proper.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Low whose telephone number is 571-272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LML
6/12/2007



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700